

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**Subject of the agreement and terms and conditions  
of card acceptance**

**Subject of the agreement**

These terms and conditions of Concardis GmbH Helfmann-Park 7, 65760 Eschborn, Germany (hereafter known as ‘Concardis’), govern the services provided by Concardis with regard to the acceptance and settlement of credit and debit cards in the course of business operations of contract partners of Concardis in Germany. A contract partner is a business within the meaning of section 14 of the German Civil Code (BGB). The contract partner appoints Concardis to process the payment transactions conducted with credit and/or debit cards of the card organisations Mastercard and Visa (hereafter known as ‘card’ or ‘cards’) as card-present transactions well as their settlement vis-à-vis the contract partner. Pursuant to these terms and conditions, the term ‘cards’ in this sense also applies if the card data is stored on another medium (e.g. smartphone). Irrespective of the customer’s payment order and on the basis of an independent contractual payment obligation to the contract partner as defined in section 780 of the German Civil Code (BGB), Concardis undertakes to pay the card transactions submitted by the contract partner in accordance with the following terms and conditions.

Furthermore, these general terms and conditions govern the provision of a payment terminal on the basis of a lease agreement; installation, maintenance and service of the terminal; and services in connection with the processing of transactions in the electronic-cash system of the German Banking Industry Committee (see parts E and F).

**Contents:**

A General provisions.....	2
B Special terms and conditions for the acceptance and settlement of credit and debit cards in card-present transactions.....	16
C Conditions for the use of the online Concardis portal.....	21
D Special terms for contactless payments.....	24
E POS service.....	25
F Merchant policy.....	28

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**A General provisions**

**1. Principles of submission and authorisation**

- 1.1 In accordance with these terms and conditions, the contract partner is entitled to accept all cards of the agreed card types (e.g. company or consumer credit cards) for cashless payment settlement. The contract partner will submit all payment orders in its business which it is entitled to accept and submit on presentation of a card in accordance with this agreement exclusively to Concardis for settlement.
- 1.2 If the cardholder opts for cashless payment via their card, the contract partner is obliged to accept the card payment in accordance with these terms and conditions, provided that the acceptance of the type of card used by the cardholder has been agreed between Concardis and the contract partner. Card acceptance must not be subjected to a minimum purchase amount. Assessing a fee for accepting a card is not permitted (surcharge).
- 1.3 In accordance with these terms and conditions, the contract partner is entitled to accept and submit payment transactions exclusively within the European Economic Area (EEA).
- 1.4 Card data of a cardholder may only be stored in a secure PCI-certified environment (see part A, point 5.2) and only with the express consent of the cardholder. The consent of the cardholder (‘consent agreement’) must contain the following elements: confirmation of the stored card number (PCI-compliant, for instance by reducing the number to the last four digits), purpose for which the card data is used, term of the agreement and confirmation of the contract partner that all changes will be communicated to the cardholder in the manner agreed between the parties. The contract partner must inform the cardholder in advance about the following points and obtain the cardholder’s approval: cancellation and return conditions, location of the contract partner, transaction amount and currency and/or the description of how the transaction amount is determined. A confirmation of the sur-

charge amount, if calculating a surcharge is permissible as an exception, for example due to an express statutory provision. Transactions may only be initiated for the reasons specified in the consent agreement.

- 1.5 Concardis’s right to make chargebacks is not restricted by having issued an authorisation number because, when Concardis obtains the authorisation number from the card-issuing bank, it can only verify the credit limit available and whether the card number has been blocked due to loss or theft of the card.  
The form and contents of the data transmission are provided in data protocols from the card settlement companies and defined on this basis. These points are to be observed by the contract partner. Amendments to the above-mentioned data protocols, which are carried out by the card settlement company at the request of the operator of the payment systems (card organisations), are to be implemented without delay by the contract partner at its own expense.
- 1.6 The contract partner is not entitled to assign its claims against Concardis to a third party without the prior written approval of Concardis.

**2. Fees**

**2.1 Service fees and other fees for the acceptance of cards**

- 2.1.1 The contract partner agrees with Concardis the price model pursuant to part A, point 2.3. In addition to the fees agreed, the fees are charged in accordance with the price list which is available to the contract partner for inspection in the Concardis portal (see part C) or which, upon request, can be sent to the contract partner.

In addition to the fees pursuant to the electronic contract form and the price list, Concardis also invoices the following fees, plus VAT in each case:

- a) Unjustified objections to direct debits €10.00
- b) Unsuccessful direct debits due to insufficient funds €10.00
- c) Unsuccessful direct debits due to incorrect/out-of-date bank information €10.00

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- d) Unsuccessful credits due to incorrect/out-of-date bank information €10.00.

Concardis is entitled to invoice the fees as agreed above to the customer and to collect them via SEPA direct debit or to deduct them from the card transactions to be paid by Concardis. Concardis is also entitled to change from one settlement method to another. Invoices are payable immediately.

2.1.2 Changes to fees for contractual services which are typically always used by the contract partner as part of the business relationship are to be notified to the contract partner no later than two months before they are to become effective. The notification of the changes is communicated to the contract partner via the Concardis portal (see part C). The contract partner is deemed to have given its consent if it has not communicated its rejection prior to the notified date on which the change takes effect. Concardis will specifically draw the contract partner’s attention to this effective consent in its notification of changes. If the contract partner is notified of changes, it can reject the agreement affected by the change before the notified date on which the change takes effect, resulting in this having no legal effect on the relationship between Concardis and the contract partner. This results in Concardis having the right to terminate the affected agreement with a notice period of 14 days. In its notification, Concardis will specifically draw the contract partner’s attention to this aforementioned legal effect.

2.1.3 For settling the card transactions it submits, the contract partner pays Concardis the commission defined in the service agreement, amounting to a percentage rate of the total amount and, depending on the agreement, an additional transaction-based fee. The amount of the commission depends on the intervals agreed with the contract partner at which Concardis is to credit the card transactions to the contract partner’s bank account. The service fee and, if applicable, the transaction-based fee are initially determined based on the information provided by the contract partner. If the information provided ultimately proves to not be accurate, Concardis will

provide the contract partner with a corrected offer. If the contract partner does not agree to this offer within three weeks, Concardis is entitled to terminate the agreement with a notice period of two weeks. Upon provision of the adjusted offer, Concardis will specifically draw the contract partner’s attention to the fact that Concardis obtains a special right to terminate in the event that the contract partner does not accept.

The contract partner pays Concardis a commitment fee for the provision and maintenance of the card acceptance and settlement system without submission of card transactions. The contract partner is to reimburse Concardis for the fees charged by Mastercard Europe/Inc. (hereinafter known collectively as ‘Mastercard’) and Visa Europe/Inc. (hereinafter known collectively as ‘Visa’) for registering in special merchant programmes (e.g. adult entertainment, gambling or mail order of medicines or tobacco) and to conclude a corresponding agreement in this regard with Concardis. If the interchange rates and card scheme fee rates applicable to the contract partner as of the contract date for card transactions (which Concardis has to remit to the card issuers and to Mastercard, Visa or another card organisation) should change and/or new fees or new interchange rates are charged to Concardis by Mastercard, Visa or another card organisation, Concardis is entitled at its reasonable discretion within the meaning of section 315 of the German Civil Code (BGB) to adjust the percentage rate of the service fee and the other fees or to introduce new fees accordingly. The contract partner can find out about the cross-border interchange rates for the card organisations Mastercard and Visa at their respective websites ([www.mastercard.com](http://www.mastercard.com), [www.visaeurope.com](http://www.visaeurope.com)). The contract partner is entitled to ask Concardis for a statement showing the interchange fees. The contract partner will request that Concardis make an offer via the Concardis portal (see part C).

2.1.4 The amount of the other fees – with the exception of the individually agreed commission percentage – results from the respective applicable price list of Concardis, which is available to the contract partner for inspection in the Concardis

# Terms and conditions of Concardis GmbH for the acceptance and settlement of credit and debit cards in card-present transactions and for the provision of POS services (‘SmartPay terms and conditions’)

portal (see part C) or which, upon request, can be sent to the contract partner. If the contract partner uses one of the listed services, the fees apply as stated at that time in the table of fees and services. Concardis is entitled to set the fee at its reasonable discretion within the meaning of section 315 of the German Civil Code (BGB) for services that are not listed but are provided in the contract partner’s interest or presumed interest and which in the circumstances can only be expected for a fee. This also applies for fees for the fulfilment of ancillary duties; section 675f, paragraph 5, of the BGB is waived in this regard. Statutory value added tax at the current rate is to be added to all fees if the service can be treated as liable for tax at the respective place of performance.

## 2.2 Terminal lease fees, transaction-based fees

- 2.2.1 Fees that are to be paid to Concardis by the contract partner for deliveries/services (terminal rent/transaction-based fees) from Concardis are based on the content of the electronic contract form and the price list of Concardis.
- 2.2.2 The payment obligation of the contract partner for the terminal lease begins when the terminal delivered is ready to commence operation. If terminals are installed and put into operation by the contract partner or a third party, the payment obligation starts with the initialisation of the terminal (i.e. the first call to the Concardis data processing centre), but seven calendar days after the contract partner receives the terminal at the latest. The purchase price for objects of purchase is payable immediately after supply of the objects of purchase.
- 2.2.3 For the purchase of items, these remain the property of Concardis until all receivables, and in particular any balance claims, that are owed to Concardis as part of the commercial relationship have been paid.
- 2.2.4 A transaction causing a transaction-based fee within the meaning of this provision is justified by a card-based payment transaction (‘card-based payment transaction’ = ‘purchase’, cancellation,

credits, etc.). This also includes transactions which were not approved or were rejected.

- 2.2.5 The sales-based fee to be paid by the contract partner to the German Banking Industry Committee for the authorisation service is not subject to VAT; the contract partner is to pay supplementary VAT for the services of Concardis. Concardis is obliged to deduct the sales-based fee for the authorisation service on behalf of the German Banking Industry Committee/the card issuer and to remit it to them in full.

## 2.3 Exclusive settlement via SEPA direct debit mandate, chargeback, VAT

- 2.3.1 The processing steps of Concardis provide for payment of invoices and chargebacks of transactions via SEPA direct debit. For this reason, Concardis obtains a SEPA direct debit mandate from the contract partner prior to concluding the agreement. The contract partner is obligated to maintain a SEPA direct debit mandate for the duration of the agreement. If the contract partner revokes the SEPA direct debit mandate without providing Concardis with another SEPA direct debit mandate, Concardis is entitled to assess the contract partner with a separate fee for invoicing via transfer pursuant to the price list. Furthermore, Concardis is entitled to terminate the agreement for good cause pursuant to part A, point 11.3. The withdrawal of a SEPA direct debit mandate does not limit the right of Concardis to offset its claims vis-à-vis the contract partner with the claims of the contract partner vis-à-vis Concardis from the transactions submitted for settlement.
- 2.3.2 In the event of a chargeback due to insufficient funds in the contract partner’s account, Concardis will make a subsequent attempt to debit the funds after a corresponding notification. In the event of unjustified chargebacks of invalid SEPA direct debit mandates, Concardis is entitled to withhold credits to the merchant from transaction processing or to offset its claims vis-à-vis the contract partner with the claims of the contract partner vis-à-vis Concardis from the transactions submitted for settlement.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

2.3.3 For contract partners located in the Federal Republic of Germany, the following applies with regard to VAT:

Concardis opts for the VAT obligation (section 9, paragraph 1, of the UStG) for the payment services provided by Concardis to the contract partner (authorisation of girocard transactions for which a sales-based fee is assessed is not such a service). The contract partner accepts this option and declares that it carries on a business within the meaning of section 2 of the UStG and that it uses the purchased services for this business which is subject to VAT. Having selected this option, Concardis adds VAT at the current rate, now 19%, to its services and issues invoices that meet the requirements of section 14 of the UStG. Concardis will not revoke the VAT option unless it is obliged by law to do so. Should the contract partner’s representations concerning its operation of a business or the business use of the services not be correct or should the tax authorities hold that the option is invalid for other reasons for which the contract partner is responsible, the contract partner will indemnify Concardis on first demand from all the ensuing losses. This applies particularly to losses incurred by Concardis on current amounts of input VAT or input-VAT rectifications as defined in section 15 of the UStG and to related incidental tax payments, especially interest on arrears, as defined in section 233a of the German Fiscal Code (AO). The contract partner is aware that there is no connection between the amount of the losses on input VAT and the service fee, and that the losses on input VAT may be higher than the amount of VAT shown on the invoice. If the VAT option is invalid, Concardis is entitled to offset the contract partner’s claim to reimbursement of the VAT charged with its own claims for compensation. If the claims for compensation cannot be definitively calculated, because a tax inspection is still proceeding, for example, Concardis is entitled to retain the entire amount of VAT paid as collateral.

**3. Settlement by Concardis, lien, providing and increasing collateral**

- 3.1 Under the terms of this agreement and on the basis of an independent abstract payment guarantee pursuant to part B, point 4.1, and/or part C, point 2.1, irrespective of the cardholders’ payment instructions, Concardis makes a payment equivalent to the card transactions submitted, less commission and other fees due, subject to any subsequent chargeback. By making the payment, Concardis does not acknowledge any legal obligation to credit the card transaction submitted by the contract partner. In consideration of the abstract payment guarantee, the contract partner assigns to Concardis its claim against the cardholder from the underlying transaction. The assignment takes effect when the card transaction data is received by Concardis. Concardis accepts the assignment. Once it has processed the card transaction data submitted by the contract partner, Concardis will credit it to the contract partner’s internal clearing account at Concardis as of the value date of the banking day in Hesse on which the card transaction data was processed after being received by Concardis. The complete data sets with the card transactions received by Concardis will be processed on the following bank working day in Hesse (‘record date’), provided that the data sets were received by Concardis by 11.59.59 p.m. on the preceding day, and allocated for payment to the bank account specified by the contract partner in the payment interval agreed with the contract partner.
- 3.2 If the record date is not a banking day in Hesse, the payment interval begins on the next banking day in Hesse. ‘Days’ within the meaning of the payment and settlement intervals defined in this agreement are always banking days in Hesse.
- 3.3 Concardis will credit the proceeds of the settled card transactions received from the card issuer to a Concardis custodial account at a bank located in the European Economic Area or Switzerland to be held in trust for the contract partner. These accounts are managed at one or more banks as open, collective custodial accounts within the meaning of section 17, paragraph 1, sentence 2

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

(1b), of the German Payment Services Supervision Act (ZAG). Concardis will notify the banks of the fiduciary relationship. Concardis will ensure that payments received in accordance with sentence 1 are not at any time mixed with money belonging to natural or legal persons other than the contract partner for whom they are held, in particular not with money of its own. Concardis will irreversibly instruct the account-holding bank to transfer all the credit items for the contract partner that entered the account into the contract partner’s account. Concardis is authorised to take from the custodial account any fees and interest for the benefit of the contract partner.

- 3.4 Concardis combines the payouts from the submitted girocard transactions and the transactions carried out with Mastercard, Maestro, Visa, Visa Electron and V PAY cards in a Concardis account. Settlement and payment to the contract partner is consolidated and carried out once per day. A requirement for the daily crediting pursuant to the preceding paragraph is that the respective terminals be cashed up by the contract partner on a daily basis, too.  
If the contract partner operates multiple terminals under one merchant ID, the credit item for the payment amounts is calculated from all the terminals into a single sum total.
- 3.5 Concardis is entitled in the following cases to credit to the contract partner the card transactions submitted by the contract partner only after the chargeback periods defined by the card organisations have expired:
- a) Repeated complaints from cardholders
  - b) Repeated use of counterfeit or stolen cards in the contract partner’s business
  - c) Reasonable suspicion that total invoice amounts have been divided into several smaller amounts
  - d) The conditions defined in part A, point 1, and/or part B, points 1 to 4.1, and/or part C, points 1.1 to 2.1 have not been met
  - e) To secure its own future claims against the contract partner for chargeback of sales transactions
  - f) Non-performance as a result of insolvency or ceasing of the contract partner’s business

Concardis is also entitled to this extent to exercise its right of retention in accordance with section 273 of the German Civil Code (BGB).

- 3.6 The contract partner grants Concardis a legal right of lien over all the contract partner’s current and future payment claims against Concardis as a result of this contract to secure all existing, future and conditional claims by Concardis against the contract partner as a result of this contract, especially payment claims resulting from chargebacks, including all penalty fees levied by the card organisations. Concardis hereby accepts the lien.
- 3.7 Concardis is entitled to require the contract partner to provide or raise appropriate collateral in the form of bank guarantees to secure all existing, future and conditional claims. The contract partner will comply with any such request from Concardis without delay. If Concardis did not ask for collateral to be provided or raised when the contract was signed, it can still require collateral to be posted during the course of the contract if circumstances that justify classifying the claims in a higher risk category only occur or become known to Concardis during the course of the contract. Such circumstances include, in particular, if the following occur:
- a) Concardis becomes aware of any serious adverse circumstances affecting the contract partner or its owner or shareholders
  - b) The contract partner’s financial position deteriorates severely, is at risk of doing so or appears unsound
  - c) The value of the existing collateral declines or is at imminent risk of doing so
- 3.8 The contract partner is only entitled to submit card transactions in the currency agreed with Concardis, whereby these card transactions must be in the same currency as that used or selected by the respective cardholder when placing the order or making the purchase. Concardis settles the card transactions in the currency agreed with Concardis. If no currency is defined explicitly in the service agreement, the contract partner will only submit card transactions in euros. If the contract partner does not provide a transaction currency code in the electronic data set, it will be assumed that the transaction is submitted in



## Terms and conditions of Concardis GmbH for the acceptance and settlement of credit and debit cards in card-present transactions and for the provision of POS services (‘SmartPay terms and conditions’)

euros. The respective current table of fees and services of Concardis shows how the exchange rate used for currency conversion is to be determined.

- 3.9 Concardis informs the contract partner about the submitted card transactions and the fee to be paid by means of the invoice made available in the Concardis portal (see part C). The contract partner must check these transaction records and statements for accuracy and completeness immediately after they are provided. Objections relating to the inaccuracy or incompleteness of transaction records or statements must be raised by the contract partner via the Concardis portal (see part C) within four weeks of receipt. The deadline applies to the date the objection is sent. If the contract partner does not raise objections in due time, this is considered accepted; Concardis will send notification of these consequences.
- 3.10 Information on executed payment transactions pursuant to Article 12, paragraph 1, of EU Directive 2015/751 is made available to the contract partner electronically each month for a period of three months. Upon the expiry of this time period, the information will be deleted and can no longer be made available to the contract partner.

#### **4. Requirements of the card organisations, use of third parties by the contract partner**

After notification by Concardis or announcement in the Concardis portal (see part C), the contract partner will respect and implement rules, procedures and/or other requirements of the card organisations – particularly relating to the authorisation and submission of card transactions – within a reasonable deadline set by Concardis or by Mastercard, Visa or another card organisation. In particular, the contract partner will conform to the references given by the card organisations to products and services deemed to be illegal in many countries and which may therefore not be paid for with the card organisations’ products. Concardis provides the contract partner with a current list of relevant products and services in the Concardis portal (see part C), of which the contract partner will take regular note – namely

for the first time at the start of the contract on which these conditions are based and thereafter at least once a quarter.

Any costs incurred by the contract partner in following and implementing the rules and/or procedures and/or other requirements of the card organisations are to be borne by the contract partner. Concardis will advise the contract partner accordingly as needed.

The contract partner must reimburse all expenses incurred by Concardis which Concardis considered necessary in connection with the execution of this contract. This includes in particular any penalty fees assessed to Concardis by Mastercard, Visa and/or another card organisation, or other damages incurred which relate to the execution of this contract.

If the expenses are caused by culpable action on behalf of Concardis, then Concardis is not entitled to reimbursement; section 254 of the German Civil Code (BGB) applies accordingly. Concardis is entitled to require the contract partner to temporarily cease submitting card transactions (suspension), in particular if Mastercard, Visa or another card organisation demands that acceptance be suspended.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**5. Data protection consent, other reporting obligations (PCI), confidentiality**

- 5.1 Both parties to the agreement undertake to comply with the rules of the data protection legislation and provisions applicable to them. Concardis is to ensure that the employees and companies employed by it for the processing of data observe the provisions of the General Data Protection Regulation (GDPR). Furthermore, the parties undertake to safeguard data gathered and stored related to cardholders against unauthorised third-party access and only to use it for the purpose of performing this contract. The contract partner agrees that Concardis may transmit to its card processor master data of the contract partner and transaction data to perform its services, as well as transaction data to the card organisations outside the European Union, to the extent that the transmission is necessary to settle the card transactions and to protect the legitimate interests of Concardis and the card organisations, and agrees that the transmission is without prejudice for the legitimate interests of the contract partner. Furthermore, the contract partner agrees that Concardis may use credit agencies and pass on data about the contract partner for this purpose and check it against the card organisations’ databases for the purpose of fraud prevention. Concardis determines and uses probabilities, which also relate to address data, to make decisions on establishing, continuing or terminating the contractual relationship.
- 5.2 The contract partner undertakes to safeguard data gathered and stored relating to cardholders against unauthorised third-party access and only to transmit it to authorised third parties for the purpose of performing this contract. In addition, the contract partner undertakes to register with Concardis in accordance with the requirements of the programmes Mastercard Site Data Protection (SDP) and Visa Account Information Security (AIS) existing at the card organisations Mastercard and Visa for protection against unauthorised access to and the compromising of card data pursuant to the Payment Card Industry Data Security Standard (PCI DSS) and to have itself certified at

the request of Concardis in accordance with the requirements of Mastercard and Visa and to submit a copy of the certificate to Concardis annually. The contract partner will register for the first time within 90 days after conclusion of the agreement. Furthermore, the contract partner undertakes only to submit card transactions to Concardis via a PCI-certified payment service provider or PCI-certified software.

- 5.3 The contract partner undertakes to post informational texts regarding data processing directed towards the cardholder near the checkout areas. The text regarding data protection legislation can be accessed at <https://www.concardis.com/datenschutzerklärung/#c14519>.
- 5.4 The data read from the chip or the magnetic strip on the card may not be stored on the contract partner’s own systems once authorisation has been given. In connection with card settlement by Concardis, the contract partner will only use the services of third parties if they meet the requirements of the card organisations, in particular the PCI standards, and if they undertake to comply with these PCI standards. The contract partner indemnifies Concardis against claims for damages and contractual penalties that Mastercard, Visa or other third parties may make against Concardis for non-registration and/or non-certification in compliance with the PCI DSS or for any successful (or unsuccessful) attempts to compromise card data at the contract partner’s business, unless Concardis shares responsibility. In this case, section 254 of the German Civil Code applies.
- 5.5 The contract partner is obliged to treat in confidence all passwords communicated to it. It is obliged to notify Concardis without delay of any unauthorised attempts to access its card-relevant IT systems or any suspicion that card data may have been compromised and to take the necessary measures in agreement with Concardis. If a card organisation indicates that data has been compromised, the contract partner is obliged to notify Concardis without delay and to appoint an auditing company approved by the card organisations to carry out a forensic investigation to prepare a PCI audit report. The audit



# Terms and conditions of Concardis GmbH for the acceptance and settlement of credit and debit cards in card-present transactions and for the provision of POS services (‘SmartPay terms and conditions’)

will examine whether the contract partner was in compliance with PCI standards and whether card data in the contract partner’s systems or those of third parties appointed by the contract partner was obtained illegally by third parties. Once the audit report has been completed, the contract partner is to rectify any and all security defects without delay and to send the project plan for achieving PCI DSS compliance to Concardis. The contract partner bears the cost of the audit. If Concardis considers the measures to be insufficient, Concardis is entitled to terminate the contract for cause, giving notice of four weeks to the end of the month.

5.6 The contract parties mutually undertake to treat as confidential all information that the other contract party has expressly indicated as confidential, or which is recognisable as confidential based on its content, and to not make this information accessible to third parties. This obligation applies in particular to operational and commercial secrets of a contract party that become known during the performance of the contract.

## 6. Credits, cancellations

6.1 The contract partner will only refund card sales for cancelled transactions by instructing Concardis to credit the amount to the customer’s card account. Refunds of girocard transactions are not permissible via the Concardis portal (see part C). Refunds of transactions carried out using Mastercard, Maestro, Visa, Visa Electron and V PAY cards are only permissible via the Concardis portal (see part C) if an incorrect/erroneous transaction is to be cancelled and reconciliation or system cut-off has already occurred, i.e. the refund is no longer possible at the terminal. To carry out refunds, Concardis will credit the amount to the cardholder and debit the contract partner for the same amount. This debit is carried out by offsetting the amount with other payable claims of the contract partner. If offsetting is not possible, the amount to be refunded is payable immediately by the contract partner and Concardis is entitled to effect settlement by debiting the amount via SEPA direct debit. Concardis is entitled to retain

the service fee for the original transaction. The contract partner is not entitled to request a credit if it has not previously submitted the card transaction to Concardis for settlement or if the submitted card transaction was not based on a sale. Concardis is only obliged to make a refund within six months of the card transaction being submitted.

6.2 To generate a credit booking, the contract partner will generate an electronic credit data set according to the provisions in the instruction manual for the terminal and submit it to Concardis within two days after issuing the credit. At the same time, a credit slip is to be generated electronically with the card data and the credit amount; this credit slip is to be signed by the checkout staff and the original given to the cardholder.

## 7. Complaints by cardholders

Complaints by cardholders relating to the contract partner’s services in the underlying transaction are to be settled directly between the contract partner and the cardholder.

## 8. Acceptance procedures

Depending on the payment methods or card types of the card organisations accepted, the contract partner is obliged to affix the acceptance logo and the logos for the use of authentication procedures as provided by Concardis in a prominent position near the cash desk and/or on its payment website, in its catalogue or in other media. If the contract partner does not accept certain types of cards issued by a card organisation, the contract partner must also inform the cardholder of this, in a clear and unambiguous manner, at the position specified above.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**9. Information obligations**

- 9.1 The contract partner will notify Concardis without delay of all changes in the data it has provided for the service agreement. This applies in particular in the following cases:
- a) Changes in its legal structure or company name
  - b) Change of address and/or bank account details
  - c) Change in location of the business activity where the services that form the basis of the submitted card transactions are rendered
  - d) Sale or lease of the company, any other change of ownership and/or closure of the business
  - e) The transfer of shares in the contract partner or its direct or indirect shareholders or other measures with a similar economic effect that result in a change of control over the contract partner or its direct or indirect shareholders, particularly if individual shareholders hold more than 25% of the shares or voting rights in the contract partner
  - f) Significant changes in the type of product range that the contract partner offers on the Internet, in its catalogue or other media
  - g) A filing for insolvency or settlement proceedings
- 9.2 Upon receiving notification of a change of ownership by the new owner, Concardis is entitled to only credit the card transactions to the contract partner after having verified the change of ownership in full.
- 9.3 Upon request, the contract partner will provide Concardis without delay with the latest audited financial statements or other business documents required to assess the contract partner’s financial position.
- 9.4 The contract partner is liable to Concardis for damage arising from its culpable breach of this information obligation.
- 9.5 Concardis is obliged to collect data about the contract partner to comply with regulations against money laundering. The contract partner provided Concardis with the required information in full and prior to conclusion of the agreement. The contract partner will immediately inform Concardis about factual changes to the information provided.

- 9.6 The contract partner consents to Concardis providing the name of its company to Mastercard, Visa and/or another card organisation to check for any previous breaches of contract with other card settlement companies. This consent also applies in the event that Concardis terminates the contract because the contract partner is in breach of its duties.

**10. Warranty for terminals, liability, claims for damages**

**10.1 Warranty for terminals**

For other items supplied by Concardis as part of a purchase based on an order, Concardis provides a warranty against deficiencies according to statutory provisions. Furthermore, Concardis is to ensure the functionality of these terminals and other items at the site of operation according to agreed maintenance (see part E, point 4). This does not apply to damage to terminals and other items that is the result of one of the circumstances covered in part A, point 10.3. As part of an agreed installation service, if applicable, Concardis is not responsible for combining the terminals and other items with other devices and programs as part of the installation and establishment of operational readiness, unless the parties agree in writing to such a provision in individual cases. In the event of agreed installation by Concardis, if applicable, the risk is transferred to the contract partner once this is completed.

**10.2 Liability on the part of Concardis for operation of terminals and the provision of network operator services**

Within the framework of providing terminals and network operator services, Concardis is liable to the contract partner for damage that arises as a result of non-conformance with characteristics that are pledged in writing and for damage that was caused by Concardis either intentionally or through gross negligence.

The contract partner may only assert claims for damage or enforce its right to withdraw if at least

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

two attempts at improvement by Concardis within an appropriate period remain unsuccessful. In the case of slight negligence, Concardis is only liable if an obligation whose fulfilment is of particular significance for achieving the objective of the contract is not complied with.

In the event of fundamental contractual obligations not being fulfilled due to simple negligence, Concardis is liable for direct financial losses of up to €10,000 per instance of damage, but for a maximum amount of €50,000 per calendar year, as well as for that damage which is typically expected to arise in relation to POS network operations.

Further damage, especially indirect damage and liability for the inaccurate content of collected data or for errors when performing payment transactions, is excluded. In particular, Concardis is not liable for the following:

- a) Damage due to: inappropriate or improper use, or other use not provided for in the agreement; incorrect operation; incorrect or careless handling; chemical, electrochemical or electronic influences; or changes or repair work performed by the contract partner or a third party without the prior consent of Concardis
- b) Loss of interest incurred by the contract partner due to late value dates
- c) Loss of profit and savings
- d) Network bottlenecks, outages and malfunctions that are caused by Deutsche Telekom or another network provider and their private branch exchanges
- e) Outages or obstructions that are caused by authorisation systems
- f) Replacement of data whose loss was not caused by Concardis

**10.3 Liability on the part of the contract partner as part of terminal operation; claims for damages of Concardis; destruction, loss, damage of the object**

Within the framework of terminal operation, the contract partner is liable to Concardis for the following:

- a) Damage to property, financial loss and personal injury caused intentionally or negligently by it or people it has commissioned to fulfil its contractual obligations.
- b) Damage caused by improper or negligent/inappropriate handling, especially due to connecting third-party products without the consent of Concardis or the impact of third-party devices such as electronic retail security systems, as well as the results of this; also with regard to complaints by cardholders and operators of authorisation systems.
- c) Damage to equipment provided to it including the loss or any other kind of destruction of equipment provided, and for the consequences resulting from this in each case.
- d) The contract partner bears the risk of the accidental destruction and accidental deterioration, as well as loss, of the terminal. To the extent that such events occur, the contract partner is obliged to inform Concardis of this immediately by using the Concardis portal (see part C). The contract partner must continue to fulfil its payment obligations.
- e) In the event of the destruction, loss or not-insignificant damage of a terminal, Concardis may terminate the agreement with a notice period of two months. This right to terminate can, however, only be exercised by the parties within three months of the events becoming known. In this case, the contract partner is obliged to pay Concardis compensation in the amount of 12 monthly rent payments by the termination date. A claim for a flat compensation fee does not exist if the contract partner argues and proves that a claim for this amount is not justified. Irrespective of an enforcement of a claim for a flat compensation fee, Concardis is entitled to assert a claim for the damage that has actually arisen or other damage, by applying the flat rate for damage if necessary.

If neither party terminates the agreement, the contract partner is obliged to continue paying all outstanding agreed services and to properly repair the terminal or obtain a replacement terminal at its own expense.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

f) Failing to return the equipment provided following the ending of the agreement or when a terminal is replaced. In such a case, Concardis is entitled to invoice the contract partner for a flat compensation fee amounting to 12 monthly rent payments, provided the contract partner fails to return the terminal provided despite requests made by Concardis and the setting of an appropriate deadline. Such a claim for the payment of compensation does not exist if the contract partner argues and proves that a claim for this amount is not justified. Irrespective of an enforcement of a claim for a flat compensation fee, Concardis is entitled to assert a claim for the damage that has actually arisen or other damage, by applying the flat rate for damage if necessary.

**10.4 Liability on the part of Concardis as part of card acceptance**

- 10.4.1 Concardis and its legal representatives or agents are only liable for damage as part of card acceptance if they are in breach of essential contractual obligations, or in cases of personal injury or damage for which Concardis is responsible due to mandatory legal provisions, unless the damage is attributable to a grossly negligent or intentional breach of obligations by Concardis or its legal representatives or agents.
- 10.4.2 If essential contractual obligations as defined above are breached by simple negligence, the liability of Concardis is limited to €10,000 per instance and €50,000 in total per calendar year. This limitation of liability also applies to the grossly negligent breach of contractual obligations by agents which are not legal representatives or senior managers of Concardis.
- 10.4.3 In all cases, the liability of Concardis is limited to the damage caused directly by Concardis that is generally and typically foreseeable in such cases. No liability is incurred for lost profit.
- 10.4.4 The liability of Concardis for damage incurred due to a failure to execute or incorrect or delayed execution of payment instructions is limited to €12,500 in accordance with section 675z, sentence 2, of the German Civil Code (BGB). This

does not apply to intent and gross negligence, interest damage nor risks that Concardis has specifically assumed.

10.4.5 The contract partner is liable to Concardis for damage arising from the culpable compromising of card data, from culpable breaches of contract or the card organisations’ procedures by the contract partner; (contractual) penalties imposed by a card organisation also count as damage in this context.

**11. Duration, termination and damages**

- 11.1 By completing and submitting a contract form, the contract partner makes an offer to Concardis to conclude a card acceptance agreement on the basis of the conditions defined in the form and the documents to which the contract form refers. The agreement comes into being through the corresponding confirmation (acceptance) of Concardis vis-à-vis the contract partner. No confirmation is made until the necessary formalities have been carried out, in particular following identification of the beneficial owner of the contract partner under money laundering legislation. Conclusion of the agreement can also be carried out via the Internet.
- 11.2 Unless otherwise agreed in the contract form and in other provisions of these contractual conditions, the agreement has an indefinite term and can be terminated via the Concardis portal (see part C) vis-à-vis the respective other party by the contract partner with a notice period of one month and by Concardis with a notice period of two months. The letter is considered to have been received seven days after it was made available in the portal, unless the contract partner views the termination letter before this date. Additionally, the contract partner is entitled to terminate the agreement via email or in writing vis-à-vis Concardis.
- 11.3 Termination of this service pursuant to this agreement always contains both the termination of the service of terminal rental, the network operator services and the services for acceptance of girocard (electronic cash), as well as the services for acceptance of cards (Mastercard,

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

Maestro, Visa, Visa Electron and V PAY cards). This principle of only a uniform termination option applies regardless of whether the respective termination is carried out with or without notice.

- 11.4 This does not affect the parties’ right to terminate the agreement without notice on serious grounds. Serious grounds for termination without notice by Concardis exist in particular if any of the following occur:
- 11.4.1 Substantial adverse circumstances come to light regarding the contract partner or its owners that would make the continued involvement of Concardis in the contract unacceptable. These circumstances exist in particular if the contract partner has made incorrect statements in the contract, the contract partner’s financial situation deteriorates substantially or may do so imminently (for example, because of an [imminent] filing for insolvency or settlement proceedings, rejection of direct debits due to lack of funds or a negative credit score), its financial position does not seem to be sound or it is in culpable breach of its information obligations under this agreement.
- 11.4.2 The contract partner has not submitted any card transactions for settlement within six months of signing the contract.
- 11.4.3 The contract partner submits sales on the basis of this agreement that were made by distance selling without the physical presentation of a credit card, without having signed a corresponding service agreement for distance sales.
- 11.4.4 The contract partner is in arrears with the settlement of payable claims due to Concardis, despite having received a grace period and having been threatened with termination of the contract.
- 11.4.5 The contract partner submits card transactions from third parties or submits card transactions regarding goods or services which are not covered by its business purpose, price segment or the group of goods or services stated by it.
- 11.4.6 Concardis tells the contract partner that the agreed commission (in the commission model) is not sufficient to cover at least the interchange

and card scheme fees as well as processing costs associated with the settlement of the contract partner’s card transactions, and the contract partner does not agree to alter the contract within two weeks of receiving the cost calculation and change request from Concardis.

- 11.4.7 The amount or number of card transactions charged back to the contract partner in one calendar week or one calendar month exceeds one per cent (1%) of the total amount or total number of the card transactions submitted by the contract partner in the corresponding period, the total amount of card transactions charged back in one month exceeds the sum of €5,000, or the ratio of submitted monthly transactions with stolen, lost or counterfeit cards to submitted monthly transactions with cards that are not stolen, lost or counterfeit exceeds one per cent (1%).
- 11.4.8 The contract partner repeatedly causes credit entries to be made without submitting any transactions or making any sales, or the amount and number of credits requested in a calendar week and/or a calendar month exceed 30% of the total amount of card transactions submitted for settlement.
- 11.4.9 The amount and number of authorisation requests sent by the contract partner and denied by Concardis in one calendar week and/or a calendar month amount to 10% of all the authorisation requests made in this period.
- 11.4.10 The contract partner repeatedly, or with the obvious intention of repetition, requests the authorisation of card transactions which the contract partner is not authorised to accept pursuant to part B, point 1, and/or part C, point 1.1, of the agreement.
- 11.4.11 The contract partner repeatedly breaches the terms of settlement defined in part A, point 1, and/or part B, points 1 to 4.1, and/or part C, points 1.1 to 2.1.
- 11.4.12 The contract partner breaches its contractual obligations so gravely and/or repeatedly that it is unreasonable for Concardis to remain bound by the contract.
- 11.4.13 The contract partner does not fulfil its obligation of initial registration and maintenance of its



Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- PCI DSS certification pursuant to part A, point 5.2, and – despite subsequent request by Concardis – does not rectify this within a reasonable deadline set by Concardis.
- 11.4.14 The contract partner does not comply with its information obligations defined in part A, point 9, within the period set by Concardis, although it has been asked to do so.
- 11.4.15 The contract partner is not (or no longer) in possession of the licenses, authorisation and/or other permits necessary to conduct its business and/or they have been withdrawn and/or denied for whatever reason.
- 11.4.16 Shares in the contract partner or its direct or indirect shareholders are transferred (in full or in part) or other measures with a similar economic effect are taken that result in a change of control over the contract partner or its direct or indirect shareholders.
- 11.4.17 Mastercard, Visa or another card organisation requires Concardis on serious grounds to suspend card acceptance by the contract partner.
- 11.4.18 The contract partner moves its place of business to a foreign country or its bank accounts to a bank outside of the European Economic Area (EEA) or Switzerland.
- 11.4.19 The contract partner does not meet its obligation to provide, maintain or renew bank guarantees in accordance with part A, point 3.6, or any other agreement within a reasonable deadline set by Concardis.
- 11.4.20 When a POS terminal or POS card/cash register system is used, the contract partner repeatedly fails to present sales slips signed by the cardholder despite being asked to do so by Concardis, or does not do so within the deadline set by Concardis.
- 11.4.21 The contract partner does not comply with a request from Concardis to install an EMV-certified POS terminal or POS card payment system in due time.
- 11.4.22 The contract partner changes its product range in such a way that, after taking the interests of the contract partner into appropriate consideration, it is unreasonable for Concardis to continue the contract.
- 11.4.23 The contract partner has made incorrect statements regarding its business operation or the goods or services offered by it, in particular if it has not pointed out that these include erotic offers, third-party gaming, mail-order sales of medicines or tobacco or other goods or services that are illegal or immoral under the laws of the country of delivery or the Federal Republic of Germany, or if it has not notified Concardis of subsequent changes to its product range or business purpose in advance in writing or continues to submit for settlement card transactions from this product range or business purpose despite the fact that no written approval has been granted.
- 11.4.24 The contract partner does not issue and maintain a valid SEPA direct debit mandate vis-à-vis Concardis pursuant to part A, point 2.5.
- 11.4.25 There is a reasonable suspicion that the contract partner is committing a criminal offence, in particular fraud, when conducting the business for which it submits the payments to Concardis for settlement.
- 11.4.26 The requirements of the German Banking Industry Committee change or other requirements and/or provisions of public law lead to compulsory changes to the payment system during the course of a terminal’s period of operation and a solution for the upkeep of the payment system is not possible or is not offered.
- 11.4.27 The German Banking Industry Committee terminates the existing agreement regarding the approval to use its electronic-cash system. In the aforementioned cases (11.4.1 to 11.4.27), Concardis is also entitled – rather than terminating the agreement without notice – to temporarily suspend the contractual services after corresponding notice to the contract partner in order to enable the contract partner to remedy the contractual violation.
- 11.5 When the agreement comes to an end, the contract partner will remove all references to card acceptance, unless it is otherwise entitled to retain them.
- 11.6 The parties agree that, for the duration of the agreement, the contract partner must submit the



## Terms and conditions of Concardis GmbH for the acceptance and settlement of credit and debit cards in card-present transactions and for the provision of POS services (‘SmartPay terms and conditions’)

card transactions carried out in its business exclusively to Concardis for settlement. If the contract partner does not submit these card transactions to Concardis or does not do so exclusively, Concardis is entitled to terminate the contract without notice and/or to invoice the contract partner for a lump sum to cover the resulting damages. This lump sum claim for damages is calculated as the product of the monthly commission charged for the last 12 months (or six months, if the term of the agreement has not reached 12 months), less expenses not incurred by Concardis, multiplied by the remainder of the contract (i.e. the number of days between the last submission to Concardis and the agreed end of the contract). A claim for lump sum damages does not exist if the contract partner argues and proves that a claim for this amount is not justified. Irrespective of an enforcement of a claim for lump sum damages, Concardis is entitled to assert a claim for the damage that has actually arisen or other damage – by applying the flat rate for damages if necessary.

### 12. Compliance with statutory and regulatory provisions

The contract partner is obliged to comply with all current statutory and regulatory provisions that apply to its business. The contract partner assures Concardis that it is in legal possession of all the licences, authorisations and/or other permits necessary to conduct its business and that it will keep them in its legal possession for the entire duration of the contract. The contract partner will notify Concardis without delay via the Concardis portal (see part C) if any such license, authorisation or permit is withdrawn, denied and/or not renewed.

### 13. Waivers of statutory provisions

The following legal provisions have been waived: section 675d, paragraphs 1 to 5; section 675f, paragraph 5, sentence 2; section 675g; section 675h; section 675j, paragraph 2; section 675p; sections 675v to 676; and section 676b, paragraphs 2 and

4, of the German Civil Code (BGB). To the extent that they have not already been waived, claims and objections by the contract partner against Concardis based on sections 675u to 676c of the BGB are ruled out if the contract partner does not notify Concardis of an unauthorised or incorrectly executed payment within six months of the debit date.

### 14. Notifications

Notifications as part of the processing of and potential adjustments to this agreement will be sent from Concardis to the contract partner via the Concardis portal (see part C). A notification is considered to have been received seven days after it was made available in the Concardis portal, unless the contract partner views the notification before this date.

### 15. Miscellaneous

15.1 As part of the contractual partnership, the contract partner has the option of making use of additional Concardis services in exchange for a special fee. Concardis, however, will not agree to the request for such an additional service if the contract partner is more than insignificantly in arrears regarding its payment obligations vis-à-vis Concardis.

15.2 References to other provisions refer to these contractual conditions, unless the other provisions are otherwise specified.

15.3 All amendments or additions to this contract must be in writing in order to be valid. The same applies to any agreement waiving this requirement for the written form.

15.4 If any provision of this agreement is or should become invalid, this does not affect the validity of the remaining provisions. The parties are to replace the invalid provision with a valid provision which best achieves the desired economic result.

15.5 Concardis may amend or supplement the terms of the contract by notifying the contract partner in text form. Amendments or additions are deemed to have been accepted by the contract partner if it does not object via the Concardis

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

portal (see part C) within two months of notification. Concardis will alert the contract partner to these consequences when the notification is sent. Objections sent within the two-month period will be deemed to meet this deadline. If the contract partner exercises its right to object, the changes will not take effect between the contract partner and Concardis, and Concardis is entitled to terminate this service agreement for good cause by giving notice of two months via the Concardis portal (see part C). This termination right expires three months after receiving the contract partner’s objections.

- 15.6 The contract partner is not entitled to assign its claims against Concardis to a third party without the prior written approval of Concardis.
- 15.7 For the proceedings of conflict resolution pursuant to section 62 of the ZAG, the parties agree that Concardis will respond to complaints of the contract partner via email or will make the responses available for download in the Concardis portal (see part C).
- 15.8 Pursuant to section 14 of the German Injunctive Relief Act (*Unterlassungsklagengesetz – UKlaG*), the contract partner may – without prejudice to its right to appeal to the courts – appeal to a private consumer arbitration board recognised by the Federal Office of Justice to handle disputes or to the arbitration boards established by the German Bundesbank and/or the German Federal Financial Supervisory Authority (BaFin).
- 15.9 The agreement is subject to the law of the Federal Republic of Germany, to the exclusion of the UN CISG and international private law. The place of performance is Frankfurt am Main. The place of jurisdiction for all legal disputes arising out of this agreement is Frankfurt am Main.
- 15.10 When processing payment transactions, Concardis takes into consideration the requirements of national and international organisations, in particular EU sanctions, provisions of the Office of Foreign Assets Control (OFAC) and UN sanctions.

**B Special terms and conditions for the acceptance and settlement of credit and debit cards in card-present transactions**

**1. Terms and conditions of card acceptance**

The contract partner is not entitled to accept the card for cashless payment and to submit the card transaction to Concardis for settlement in the event of the following:

- a) The customer does not physically present the card, but rather has sent or intends to send the card data to the contract partner in writing (e.g. by telefax or postcard), by telephone, email or online, unless it has signed a separate written contract with Concardis for this purpose
- b) The contract partner’s claim against the cardholder is not established at its own place of business, but at the place of business of a third party, or is not based on a service provided to the cardholder for its own account
- c) The transaction to be settled is not within the scope of the contract partner’s business and its range of goods, products or services as stated in its self-assessment or in other statements
- d) The claim to be settled is based on legal transactions that are illegal or immoral under the legislation applying to the legal transaction with the cardholder
- e) Given the circumstances attending the presentation of the card, the contract partner should have doubted the customer’s right to use the card; such doubts must exist, in particular, if:
  - aa. The cardholder requests that the total amount of the card transaction be divided or split across several credit cards
  - bb. The cardholder announces when presenting the card that problems with its acceptance may arise

Concardis is entitled to amend or supplement the conditions stated under part B, point 1 a) to e), by written notification to the contract partner via the Concardis portal (see part C), giving notice of four weeks if Concardis has to make such amendments due to possible misuse, changes to statutory provisions or corresponding requirements of

# Terms and conditions of Concardis GmbH for the acceptance and settlement of credit and debit cards in card-present transactions and for the provision of POS services (‘SmartPay terms and conditions’)

Mastercard Europe/Inc. (hereinafter known collectively as ‘Mastercard’), Visa Europe/Inc. (hereinafter known collectively as ‘Visa’) or another card organisation.

## 2. Authorisation at the POS

- 2.1 The contract partner will transmit the authorisation requests for card transactions to Concardis electronically using a contactless-enabled and EMV-certified POS terminal or a contactless-enabled and EMV-certified card checkout system (hereafter also just known collectively as ‘terminal’). The terminal must conform to the security requirements of the card organisations, be approved for use by the card organisations and, in particular, must be PCI-certified and must be able to process contactless transactions in accordance with the special terms for contactless payments. In the course of authorisation, the contract partner is to read any chip present on the card by inserting the chip card into the chip reader of the terminal. Irrespective of the amount of the transaction, the contract partner is obliged to request an online electronic authorisation for every card transaction immediately via the Concardis terminal (zero-euro limit), unless any other written agreement has been reached with Concardis. If a card with a chip is presented, offline authorisation is also permitted if, following the successful reading of the chip, the cardholder is requested by a message in the terminal display to enter a personal identification number (PIN) and payment is confirmed after the PIN has been entered. Only if the card has no chip is the magnetic strip on the card to be read by the terminal. In this case, all the data on the magnetic strip is to be transmitted to Concardis.
- 2.2 Card data may not be entered into the terminal manually to obtain authorisation.
- 2.3 For card transactions with Maestro, Visa Electron and V PAY cards, the contract partner may only obtain online authorisation electronically by means of a terminal. These cards require the cardholder to enter a personal identification number (PIN), which is then accepted by the terminal.
- 2.4 Manual generation of slips is not permitted – neither by generating a paper slip using a mechanical imprinter nor by manually entering the information into the terminal. A manually submitted slip does not oblige Concardis to payment vis-à-

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

vis the contract partner, even if Concardis initially credits the transaction amount to the contract partner upon submission of the receipt.

- 2.5 The contract partner may not divide the total invoice amount of a sale into several invoice amounts and then have these amounts authorised separately. Concardis is released from all obligation to pay this total invoice amount if it exceeds the floor limit and Concardis has not authorised the total amount before it is submitted. The same applies if the contract partner reduces the total invoice amount to below a contractually agreed floor limit by printing several sales slips for one invoice amount.

**3. Principles of submission**

- 3.1 When a card is presented, the contract partner will use a terminal to read the data either from a chip on the card or from the magnetic strip, if the card has no chip. The contract partner is to transmit the full data for the card transaction, in particular the card number, expiry date, total invoice amount in the original transaction currency and contract partner number, to Concardis electronically within two days of the transaction date. The contract partner is to use a terminal initialised and approved by Concardis to do so. The contract partner is responsible for ensuring that the card data is received by Concardis in full, on time and in a data set suitable for electronic processing. The contract partner will electronically submit only card transaction data for which an authorisation number has been obtained from Concardis.
- 3.2 The contract partner must only submit card transaction data from Maestro, Visa Electron and V PAY cards to Concardis electronically and within two days of the transaction date.
- 3.3 The contract partner is obliged to keep copies of all sales slips and all documents about the sales underlying these card transactions, in particular the till receipt or invoice and the ‘no refund policy’ (= evidence that, before the transaction was completed, the customer was notified of the contract partner’s general terms and conditions/cancellation policy) for 18 months after the respective slip or document was produced and to send

Concardis upon request, within the deadline set by Concardis, a copy of the sales slip and other documents so that it can process any enquiries from the card issuers. This does not affect the contract partner’s statutory obligations to keep business records on file. If the contract partner does not send Concardis a copy of the sales slip or other documents for a settled card transaction within the period set by Concardis, and if the transaction is charged back to Concardis by the card issuer as a result, Concardis is in turn entitled to charge this sales transaction back to the contract partner.

**4. Terms and conditions of the abstract payment guarantee**

- 4.1 In accordance with this agreement, Concardis undertakes to credit the contract partner with all the card transactions submitted to Concardis by the contract partner and which the respective card organisation credited to Concardis, to the extent that the contract partner was entitled to accept them in accordance with the subject of the agreement and point 1 above and which have been authorised in accordance with the subject of the agreement and part A, point 1, and part B, points 1, 2 and 3, of the terms and conditions and part D of the additional sector terms applicable to the contract partner. This abstract payment guarantee is given subject to the following conditions precedent:
- a) The card presented is valid at the time of presentation, that is, the date on the signed sales slip is within the period of validity printed on the card (from ... to ...) and the card is signed by the cardholder. The existence of this condition requires that it is technically and factually possible for the contract partner to check the conditions.
  - b) Before submitting the card transaction, and irrespective of the amount (zero limit), the contract partner has used a terminal from Concardis to request and obtain an authorisation number for the card transaction and recorded it on the debit slip.
  - c) The contract partner has produced a debit slip in duplicate using a terminal initialised and approved by Concardis by reading the chip or mag-

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

netic strip on the card. Card data may not be entered into the terminal manually without reading the chip or the magnetic strip on the card, unless Concardis has given its approval in writing beforehand or the contract partner was entitled to do so in accordance with this agreement. When Maestro, Visa Electron and V PAY cards are accepted, the cardholder is to enter the personal identification number (PIN) for the card into the terminal. The PIN may only be entered by the cardholder in person. No methods other than entering the PIN (e.g. signing a sales slip) may be used for payments with a Maestro, Visa Electron and/or V PAY card. The card data must be printed legibly and in full on the sales slip, which must also include the total invoice amount, the date, company name, address and merchant ID, as well as the currency code for the transaction. Data on the sales slip may not be effaced or altered once it has been signed by the cardholder; in this case, Concardis is not obliged to credit the amount submitted. On the copy of the sales slip handed to the cardholder, the first 12 digits of the card number must be replaced by the characters \*, # or x, so that only the last four digits of the card number are visible.

- d) The card number and expiry date printed on the sales slip must be the same as the card number and expiry date on the front of the card and as the card number printed on the back of the card in the signature field.
- e) The cardholder has acknowledged the total amount by signing on the front of the sales slip in the presence of a representative of the contract partner or by personally entering the PIN for the card and receiving confirmation. The signature on the sales slip is the same as that on the card presented.
- f) The contract partner has given the cardholder a copy of the signed sales slip.
- g) The card has not been blacklisted or otherwise notified to the contract partner as being invalid.
- h) The card has not visibly been altered.
- i) Any photograph on the card bears a resemblance to the person presenting the card.
- j) The contract partner has submitted each card transaction to Concardis for settlement only once

and, at the request of Concardis, has provided written evidence that every card transaction submitted was based on a sales transaction with the customer.

- k) The amount and currency of payment claims submitted by the contract partner are the same as the amount and currency invoiced to the cardholder for the goods and services sold.
  - l) If the goods or services were delivered after the card was presented and are disputed by the cardholder, the contract partner is to provide Concardis with evidence via the Concardis portal (see part C) that it delivered the goods or services free of defects, in the quality, colour, size and quantity described, to an address provided by the cardholder and within any deadline agreed with the cardholder, or that it has not received the goods back from the cardholder or that it has received the goods back from the cardholder and has delivered replacement goods or goods free of defects to the cardholder.
- 4.2 Concardis is entitled to amend or supplement the conditions stated in points 4.1 a) to l) of part B by notification to the contract partner via the Concardis portal (see part C), giving notice of four weeks, if Concardis considers such amendments to be necessary due to possible misuse or because they are necessary to comply with corresponding requirements of Mastercard, Visa or another card organisation.
- 4.3 In the event that the legitimate cardholder or the card issuer disputes a card transaction, the contract partner is obliged to comply with all the conditions mentioned in part A, point 1, and part B, points 1 to 4.1, to the extent that they are responsible for this compliance, and to provide Concardis with evidence to this effect via the Concardis portal (see part C).

## 5. Reclaiming payment

- 5.1 In the event of non-compliance with one or more provisions of part A, point 1, and/or part B, points 1 to 4.1, or part D of the additional sector terms with regard to a card transaction, Concardis is entitled to reserve its right to reclaim the payment of the settled card transaction within a period of 18 months from the date of the card transaction

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

if the card transaction has previously been charged back by the card issuer.

- 5.2 In the cases mentioned above, Concardis will invoice the contract partner for the previously paid card transaction, less the commission which the contract partner already paid on this card transaction, and offset it against the contract partner’s other due receivables. If offsetting is not possible, the amount to be charged back is payable immediately by the contract partner and Concardis is entitled to effect settlement by debiting the amount via SEPA direct debit.
- 5.3 The provisions of points 5.1 and 5.2 of part B continue to apply for 18 months after this contract comes to an end.



Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**C Conditions for the use of the online Concardis portal**

**1. Subject of the agreement**

The use of the Concardis portal enables the contract partner to retrieve the statements of card transactions submitted to Concardis and to obtain additional services described in more detail in the Concardis portal if desired. Further information about the functions of the Concardis portal can be found in the terms and conditions of use and the instructions that can be viewed and downloaded from the portal.

The statements will be held ready for retrieval by the contract partner for a period of at least 12 months.

The Concardis portal still serves the purpose of providing the contract partner with notifications as part of the contractual definitions (information about the current price list, updated terms and conditions, requirements of the card organisations). The contract partner will therefore regularly, but at least once per week, open the portal to acknowledge the notifications. A notification is considered to have been received seven days after it was made available in the Concardis portal, unless the contract partner views the notification before this date.

Additionally, the contract partner has the option of ordering products via the Concardis portal under the conditions specified there.

**2. Registration and use**

To use the service, the contract partner nominates a person with access rights in the corresponding service agreement, together with an email address that is used for online contact and as a user ID. This person is sent a password to log in for the first time. Once the person has logged in for the first time and accepted the terms and conditions of use, they choose a new password to continue using the portal (login password). The superuser nominated and authenticated vis-à-vis

Concardis is allowed to set up other users for the legal person and to give them specific rights within the website or the Concardis portal. The contract partner will require its authorised users to use the login password confidentially.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**3. Objections to statements of account**

Concardis will make the statements available to the contract partner in the portal on the day after the statement date. Statements are deemed to have been received as soon as Concardis has made them available for retrieval by the contract partner. The contract partner is obliged to retrieve the statement promptly and to check that it is complete and correct without delay. Any objections must be raised with Concardis via the Concardis portal within four weeks. The statement is deemed to have been approved if the contract partner neglects to raise its objections in good time. The contract partner may ask for the statement to be corrected thereafter, but must then prove that a debit was made incorrectly or a credit to which it was entitled was omitted.

**4. Chargeback management**

As soon as the chargeback module has been implemented in the Concardis portal, Concardis will notify the contract partner of this separately and, from the time specified in the notification, chargeback management will be converted to communication via the Concardis portal. Communication concerning chargebacks by card issuers and the documentation to be provided must then take place exclusively via the portal. If it uses the portal, the contract partner is therefore obliged to open the chargeback module at frequent intervals to make sure it does not miss any deadlines for chargebacks and providing documentation.

Chargeback management is carried out via email communication until the conversion to the Concardis portal.

The contract partner will observe the form requirements for the transmission of the documents requested from it, both when using the Concardis portal as well as in email communication.

**5. Security measures**

When using the Concardis portal, the contract partner will observe the following requirements of Concardis and ensure that the employees and third parties employed as part of the use of the Concardis portal also observe the requirements:

- The contract partner is prohibited from interrupting the operation of the Concardis portal in any way, or attempting to interrupt the Concardis portal.
- The contract partner will use the Concardis portal only for legal purposes and only in such a way that does not violate, limit or exclude the usage rights of third parties to this portal.
- The contract partner is prohibited from uploading, storing, transmitting or forwarding materials or information without having the rights of use of these materials.
- The contract partner is prohibited from uploading, storing, transferring or forwarding any materials or information which are illegal, potentially harmful, threatening, insulting, libellous, slanderous, pornographic, obscene, racist or in any other way offensive or damaging to reputation, or materials which violate the rights of third parties.
- The contract partner is prohibited from making any technically disruptive or damaging interventions – for example through the use of inappropriate or excessive burdens on parts of the portal, the devices, the systems or the network which are used for the operation of the portal – and from attempting to access the protected user area with any login details other than their own.
- The contract partner is prohibited from transmitting data or sending or uploading any materials which contain malware (e.g. computer viruses, Trojans/Trojan Horses, worms, logic bombs, key-stroke recorders, spyware, adware or other similar, harmful programs).
- The contract partner will only access the Concardis portal via a computer which is protected by an up-to-date version of a well-known antivirus program.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- The contract partner is prohibited from sending via the Concardis portal any unwanted advertising emails, chain letters or other unsolicited messages.
- The contract partner is prohibited from uploading credit card data to the Concardis portal.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**D Special terms for contactless payments**

**1. Scope of application**

- 1.1 The following rules apply as a supplement to the acceptance and submission of card transactions using cards with a contactless interface.
- 1.2 In accordance with the following provisions, Concardis enables the contract partner to accept cards with a contactless interface for cashless payments and to submit receivables generated by means of such a card to Concardis for settlement.

**2. Principles of submission and authorisation**

- 2.1 When a card with a contactless interface is presented, the contract partner is to read the data in a contactless fashion, that is without physical contact between the terminal and the card, using a terminal–reader combination initialised and approved by Concardis (hereinafter ‘terminal’) and obtain an electronic authorisation from Concardis. If authorisation is given, the contract partner is to send the full data for the card transaction, in particular card number, expiry date, total invoice amount and Concardis merchant ID, to Concardis electronically in the original transaction every business day by means of an end-of-day reconciliation. The contract partner is responsible for ensuring that the card transaction data is received by Concardis in full, on time and in a data set suitable for electronic processing.
- 2.2 The contract partner is obliged to have the cardholder authenticate the card transaction by signing their name or entering their PIN or by making correct use of a biometric method. This obligation does not apply to cases in which the individual card transaction does not exceed the limit for contactless payments without authentication (hereinafter ‘transaction limit without authentication’). This amount is set by the card organisations. At the time the contract is signed, the maximum amount of the transaction limit without authentication is €25.
- 2.3 If contactless data is sent without cardholder authentication by signature or PIN or by making

proper use of a biometric method, the obligation of Concardis to pay is limited per cardholder and transaction to the transaction limit without authentication. This obligation only applies to Concardis in the event that the individual card transaction submitted does not exceed the transaction limit without authentication.

- 2.4 Authentication as defined in part H, point 2.2, is required in all cases if the individual card transaction exceeds the transaction limit without authentication. If the contract partner does not comply with this obligation, Concardis is released from its obligation to pay. If the card issuer charges the card transaction back to Concardis because no authentication was obtained in the form of a signature on the sales slip, correct PIN entry or correct use of a biometric method, Concardis is entitled to charge the card transaction back to the contract partner.
- 2.5 If, for technical reasons, it is not possible to authenticate a contactless electronic authorisation request, e.g. because the chip on the card does not permit such a function or the terminal used for this transaction cannot determine the card data by contactless means, the card data must in all cases be read physically (by contact between the card and the terminal) from the chip on the card or, where necessary, from the magnetic strip, and the payment must be authenticated by the cardholder by means of their signature or by entering their PIN using a terminal in accordance with the standards defined by Concardis in its conditions for the acceptance and settlement of credit and debit cards.

**3. Other duties of the contract partner**

- 3.1 For card transactions that exceed the transaction limit without authentication for contactless payments, the contract partner is obliged to print a sales slip at the terminal, file it in accordance with the terms and conditions of Concardis for the settlement of credit and debit cards and present it to Concardis within a period defined by Concardis, usually 14 days from the request date, in the event of a complaint from the cardholder.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- 3.2 The contract partner is obliged to affix the acceptance logo required by the respective card organisation and provided by Concardis in a prominent position near the cash desk.
- 3.3 The contract partner authorises the card organisations to refer to the contract partner’s company as a partner of card organisations in press releases and/or for advertising purposes.
- 3.4 The contract partner undertakes to use a card reader that shows the acceptance logos as defined by the card organisations of all the cards the contract partner is entitled to accept in accordance with the service agreement.

**E POS service**

**1. Subject of the agreement**

These general terms and conditions govern Concardis’ POS service for its contract partners. Depending on the scope of the order placed, the POS service covers the provision of a POS terminal on the basis of a lease agreement; the installation, maintenance and servicing of the terminal; the removal of faults in POS network operation; and all other services in relation to the processing of the electronic-cash system of the German Banking Industry Committee and the routing of authorisation requests for transactions with credit and debit cards.

The contract partner expressly acknowledges the conditions for participation in the electronic-cash system of the German Banking Industry Committee (see the following part F of these terms and conditions of Concardis GmbH for POS service) as a requirement for participating in cashless payment services. These are the subject of their contractual relationship with the German Banking Industry Committee. If the function of the network operator is mentioned in part F of the merchant policy, Concardis assumes this function vis-à-vis the contract partner on the basis of this agreement. The company’s service of providing cash-back pursuant to part F, I., point 13, is not a subject of the services agreed under this contract.

Concardis assures the contract partner that it will fulfil the requirements set by the German Banking Industry Committee (GBIC) at the time the agreement is signed. If the requirements of the German Banking Industry Committee change or if other requirements and/or provisions of public law lead to compulsory changes to the payment system during the course of a terminal’s period of operation, Concardis will offer solutions for the upkeep of the payment system. Any costs that arise in relation to this can be invoiced to the contract partner.

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

**2. Scope of services**

**2.1 Service on the part of Concardis**

Concardis is to provide the deliveries and services agreed to in the electronic contract form according to the prices and conditions specified therein, as well as according to the conditions in the price list in its respectively valid version. The preconditions necessary for the performance of the deliveries/services according to point 2 are to be put in place by the contract partner according to Concardis’ guidelines. Additional services requested (e.g. changes or adjustments to technical requirements) are to be billed separately.

**2.2 Scope of services**

Concardis transmits information for authorisation to the operator’s computer responsible for the respective card or the card issuer and sends the results back.

Amongst other things, response times depend on the line link selected, the transmission speed, the availability of the data transmission network and the response time of the operator’s computer and the respective authorisation system.

Concardis assumes no responsibility for the accuracy of the data transmitted to Concardis.

**2.3 Intermediate storage**

In compliance with data protection provisions and in accordance with the requirements of the banking sector, Concardis saves the information collected from the operator’s computer/concentrator for the following:

- a) Processing complaints
- b) Generating payment transaction data according to the guidelines of standardised data medium exchange for processing
- c) Processing payment transactions
- d) Invoicing charges in accordance with the conditions of the German Banking Industry Committee (see part F of the merchant policy)

**2.4 Saving payment transaction files for girocard transactions and balancing**

Concardis saves payment transaction files from girocard transactions for 90 days from the last time the terminal was balanced. During this period, questions on payment transactions are responded to free of charge.

In order to secure payment transaction files from girocard transactions, Concardis reserves the right to trigger a balancing of the terminal – which is subject to a charge – after the expiry of an appropriate period of time, but two months after the last transaction at the latest.

**3. Obligation of the contract partner**

The contract partner is obligated to provide Concardis with all information that is required by it or participants for implementing the selected solution for cashless payments.

Furthermore, the contractual partner is obligated to the following:

- a) To operate the equipment given to it according to the instructions supplied with it
- b) To inspect, within three working days of receipt, the terminal and additional materials delivered (e.g. cables, paper rolls) in particular with regard to completeness as well as functionality for use in the POS process, and to notify Concardis of any defects which are identified or identifiable during this inspection via the Concardis portal (see part C) within three additional working days; the notice of defects must contain a detailed description of the deficiencies; defects that are not identifiable during the course of the proper inspection described must be reported within eight working days of their discovery; if this inspection and notification obligation is not fulfilled, the subject of the agreement and the delivered software are considered accepted, regardless of the deficiencies in question
- c) To not make any changes or repairs to the equipment during the rental period



Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- d) To notify Concardis immediately via the Concardis portal (see part C) of any change in location of the equipment
- e) To inform Concardis of a change to the postal address and/or dial-up number of the contract partner immediately via the Concardis portal (see part C)
- f) To notify Concardis immediately via the Concardis portal (see part C) of faults or defects in and damage to the equipment
- g) To notify Concardis immediately of the assertion of claimed rights of third parties to the terminals or the software used
- h) In the event of seizure attempts by third parties affecting the property of Concardis in the form of the equipment provided by it, to point out the actual ownership situation to those third parties and any body commissioned with the execution of the seizure
- i) To provide the necessary cable connections and connector boxes according to Concardis’ specifications at the desired terminal locations for the on-site installation by Concardis and to inform Concardis immediately of this availability, and to enable the installation of the equipment at the agreed time
- j) To balance generally on a daily basis, but at least once per week and at the end of each month
- k) To notify Concardis immediately via the Concardis portal (see part C) of changes to its bank account information for credit items and direct debits
- l) To return in due time the leased equipment as well as any accessories provided, including SIM cards, in the event of termination of the contractual relationship; to do so, the contract partner may use a postage-paid return label which will be provided by Concardis approximately two weeks before the date on which the agreement terminates; in the event of a carriage-forward return, Concardis will invoice this, plus any processing costs, to the contract partner
- m) To ensure that the terminal is only used for purposes other than payment (e.g. making configurations or performing repairs to the terminal and the accessory parts) by Concardis or third parties commissioned by Concardis

#### 4. Installation, depot maintenance and service

##### 4.1 Installation

The contract partner itself will install the terminals provided in a timely manner. If the contract partner encounters unexpected problems during installation, it has the option to contact Concardis via a ticket system in the Concardis portal and to request support on the telephone.

##### 4.2 Depot maintenance and service

**4.2.1** Concardis provides the contract partner with maintenance services in the form of depot maintenance, which is described in the following, for the upkeep or restoration of operational readiness and other equipment associated with this according to the scope of functionality ordered. When concluding a rental agreement, the depot maintenance is included in the flat rental fee. Servicing only covers the removal of faults upon the request of the participant or contract partner.

**4.2.2** If it should be necessary in the opinion of Concardis as part of maintenance work, the contract partner enables access to the terminal via remote-maintenance software after prior appointment agreement. When reporting a fault, the contract partner is to state all recognisable details and, if necessary, follow the subsequent instructions of the technician, within reasonable bounds, for problem analysis and fault determination, in order to guarantee effective fault elimination.

**4.2.3** The elimination of operational disruptions that are the fault of the contract partner, its employees, its agents or any other third parties not employed by Concardis, that are caused by *force majeure*, especially those caused by water and fire damage, or that are due to changes to POS processes (e.g. as a result of new specifications from the German Banking Industry Committee) are not covered under depot maintenance. If, during the course of providing maintenance services, it transpires that the operational disruption is due to one of the reasons mentioned above,

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

Concardis is entitled, but not obligated, to remove the operational disruption. The contract partner bears the costs for the repair in this case.

**4.3 Right of access for the removal of equipment**

After the agreement has ended, the contract partner will dismantle the terminal without delay and return it to a depot location specified by Concardis at its own cost. If Concardis decides to dismantle terminals itself, the contract partner will grant Concardis, or third parties employed by Concardis, access to the terminals to be dismantled, including other equipment provided by Concardis on the basis of the lease.

**4.4 Depot maintenance**

With depot maintenance, the contract partner has a joint obligation in performing terminal diagnostics and fault localisation. It is obligated to remove defective devices and to send these to a depot location specified by Concardis at its own cost. Provided nothing else has been agreed, Concardis performs the repair, or provides an equivalent replacement for the defective equipment, and sends this back to the contract partner at the contract partner’s expense in a condition that is ready for operation. The contract partner is to perform the installation and the proper commissioning of the equipment.

**4.5 Replacing defective equipment**

Concardis will arrange for the replacement of equipment – provided this is necessary – within two working days of the proper reporting of the fault during the course of normal working hours.

**F Merchant policy**

**I. Conditions for participation in the electronic-cash system of the German Banking Industry Committee**

**1. Participating in the electronic-cash system of the German Banking Industry Committee**

The company is entitled to participate in the electronic-cash system operated by the German Banking Industry Committee (GBIC) in accordance with these conditions. The electronic-cash system enables cashless payment at automated checkouts and electronic-cash terminals. The company’s contract partner in relation to the authorisation of each individual payment transaction is the respective card-issuing payment service provider (see point 5). All payment service providers participating in the electronic-cash system are henceforth referred to as ‘the banking industry’.

**2. Card acceptance**

Debit cards issued by payment service providers that display a girocard symbol as per section 2.3 of the technical appendix are to be accepted at the company’s electronic-cash terminals. The companies remain free to award discounts. The company is to advise cardholders of the non-acceptance of debit cards by payment service providers for want of a commission agreement by means of stickers, electronically or by any other appropriate means. If the banking industry has entered into corresponding cooperation agreements with operators of or participants in secure and PIN-supported debit card systems who are based abroad (cooperation partners), the company is obligated to accept the debit cards issued by a payment service provider in the system of a cooperation partner for cashless payment at electronic-cash terminals under the conditions applicable to the electronic-cash system. The network operator will inform the company about the cooperation partners’ debit cards that are to be accepted within the framework of the electronic-cash system and will take these into consider-

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

ation during technical processing within the electronic-cash system. The acceptance of cards from other systems at electronic-cash terminals is not affected by this, provided this does not compromise the proper processing of the cards that are to be accepted within the electronic-cash system. The company has the option of installing automatic mechanisms which make preselections of a certain payment brand or payment application for the cards accepted in its electronic-cash terminal. In this case, it may not prevent the cardholder from overriding this preselection.

**3. The company’s connection to the network of a network operator**

The company’s participation in the electronic-cash system requires a connection to a network based on a separate agreement between the company and a network operator, provided the company does not itself assume the role of the network operator. The task of an operator network is to connect the electronic-cash terminals with the authorisation systems of the banking industry, which approve the electronic-cash transactions. The network operator is responsible for the installation of electronic-cash terminals, their connection to the operator’s computer, their technical support and the insertion of cryptographic keys. If the process for the online personalisation of terminal hardware security modules (the OPT procedure) is used here, the network operator is responsible for the transmission of cryptographic keys as part of those processes. The network operator is to ensure that the network fulfils the security requirements laid out by the banking industry.

**4. Changing the cryptographic keys required for terminal operation**

In order to maintain the security of the electronic-cash system, it is necessary to change the cryptographic keys at regular intervals or in response to circumstances. The cryptographic keys required for operating the terminal are created by the banking industry. The company is obliged to accept these cryptographic keys as they were provided by the banking industry. This

takes place via the network operator. If the OPT procedure is used for insertion, the company is to conclude an appropriate agreement for this purpose with a payment service provider chosen by it (a terminal payment service provider) or with a network operator commissioned by one.

**5. Transaction authorisation from the card-issuing payment service provider**

With a positive authorisation of a transaction, the card-issuing payment service provider, who is affiliated with the electronic-cash system, declares that it will pay the receivable in the amount authorised at the electronic-cash terminal (an electronic-cash transaction). If the company accepts at its electronic-cash terminal a debit card issued by a credit institution in the system of a cooperation partner then, with a positive authorisation of a transaction, the card-issuing payment service provider from the system of a cooperation partner declares that it will pay the receivable to the amount authorised at the electronic-cash terminal (an electronic-cash transaction). Requirements for settling the electronic-cash transaction are that the electronic-cash terminal is approved by the network operator, was operated according to the procedures agreed with the network operator and the requirements listed in points 2 and 7 were adhered to by the company. If the card-issuing payment service provider is affiliated with the electronic-cash system, a further requirement is that the electronic-cash transaction is submitted by one of the company’s payment service providers (a collection payment service) within eight days. The submission of the electronic-cash transaction by the company via its payment service provider is not part of the authorisation of the transaction given to the company by the card-issuing payment service provider. When an electronic-cash transaction is cancelled, the card-issuing payment service provider no longer has a payment obligation. If requested to do so by the banking industry – via the network operator – the affiliated company is obliged to provide more detailed documentation regarding a contested electronic-cash transac-

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

tion (e.g. copies of records, retailer’s reports) immediately, but within a period of ten days following receipt of the request at the latest.

**6. Fees**

For the operation of the electronic-cash system and the approval of electronic-cash transactions in the authorisation systems of the banking industry or the authorisation system of a cooperation partner, the company or anyone appointed by it is liable to the card-issuing payment service provider for the fee agreed between them. If individual fees are agreed, both parties will comply with the technical requirements of the electronic-cash system. No fee is levied for cancelled transactions. The company is obliged to prove the existence of a fee agreement with all card-issuing payment service providers to the network operator and to inform the network operator of the parameters it needs for technical transaction processing (e.g. it may be necessary to provide the basic calculation figure that has been individually agreed). If the company does not have a fee agreement with one or more card-issuing payment service providers, it must use its best efforts to enter into fee agreements with those card-issuing payment service providers. Until full evidence has been provided, the network operator may take suitable and reasonable precautions involving the company, such as advising cardholders via the company that debit cards from certain card-issuing payment service providers are not accepted for want of a fee agreement or the (temporary) disconnection of the terminal until evidence of the missing fee agreements has been provided. At the merchant’s request and once they have signed a service agreement, the network operator may carry out the technical processing of fee agreements negotiated directly between the company and card-issuing payment service provider(s). If the company uses an appointee for settling electronic-cash fees, it will also oblige the appointee to record the electronic-cash fees separately from its other assets on a separate account. Notwithstanding any agreement to the contrary, these fees are held in

trust for the card-issuing payment service provider. The fees owed to the individual card-issuing payment service providers are remitted to the card-issuing payment service providers at intervals via the network operator, insofar as this has been agreed between the company or its appointee and the individual card-issuing payment service providers, taking the technical requirements of the network operator into account.

**7. Operation of terminals according to the guidelines in the technical appendix**

The company will operate the electronic-cash terminals for the cards permitted within these conditions (see point 2) exclusively in accordance with the operating instructions provided in the accompanying technical appendix. The requirements contained within them form part of these conditions. In order to prevent, in particular, the exposure of a PIN when this is entered at a terminal, the security requirements listed in the accompanying technical appendix are to be observed when installing the terminals. The company is to refrain from doing anything that could compromise the security or the proper functioning of the electronic-cash system. The company is obliged to inform its network operator about any events which could limit the security or the proper processing of the electronic-cash system. Only terminals approved by the banking industry may be used to take part in the electronic-cash system. Necessary adjustments to terminals are to be carried out on time according to banking industry guidelines so that applicable authorisation requirements are adhered to. Non-adjusted terminals may not be used in the electronic-cash network after the deadline.

**8. Entering a personal identification number (PIN) during the payment process**

In addition to providing a card, a personal identification number (PIN) is to be entered at the electronic-cash terminal to execute payment. The PIN may only be entered by the cardholder. For the processing of contactless payments (provided these are supported by the electronic-cash

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

terminal), the card-issuing payment service provider may waive the requirement to enter the PIN for transactions up to €25 each.

**9. Granting access**

The company is to ensure that representatives of the banking industry can, upon request, gain access to the electronic-cash terminals and inspect them.

**10. Collecting electronic-cash transaction amounts**

The collection of electronic-cash transaction amounts is to take place based on separate agreements between the company and the selected payment service provider and does not form part of these conditions. The network operator will already have declared itself ready to support the company with the processing of payment transactions by creating direct-debit files from the company’s electronic-cash transactions and by, amongst other things:

- Providing these either to the company for submission to its account-keeping payment service provider or to a central office specified by one
- Submitting these itself to the account-keeping payment service provider of the company on its behalf
- Or by handing these over for its account-keeping payment service provider to collect following the assignment of receivables by the company

**11. Retention periods**

The company will keep the retailer’s reports from electronic-cash terminals for at least 15 months – irrespective of statutory retention periods – and, upon request, provide these to the collection payment service provider through whom the electronic-cash transaction was collected. Objections and other complaints by cardholders – as per point 2, line 1 – that concern the contractual relationship with the company will be raised directly with the company.

**12. Acceptance marks**

The company must clearly draw attention to the electronic-cash system with a symbol provided in accordance with chapter 2.3 of the technical appendix. In so doing, the company may not advertise a payment service provider or a group of payment service providers.

**13. Special requirements for the provision of cash-back by the company**

If a company provides the option of cashback as part of the electronic-cash procedure, the following additional provisions apply:

- The withdrawal of cash is only permitted as part of an electronic-cash transaction for paying for goods and services of the company. The electronic-cash transaction should be for at least €20.00.
- Cash may solely be withdrawn following the compulsory authorisation of the requested amount by the card-issuing payment service provider.
- The company is bound by the payment service provider’s decision to provide authorisation, subject to there being sufficient cash reserves in the till.
- The maximum amount of cash that may be withdrawn is €200.00.
- The company is not to treat cardholders of different card-issuing payment service providers differently based on charges for withdrawing cash. In this process, the merchant may consider the cash reserves in the respective till, however.

**14. Changes to the conditions**

The company will be notified of any changes to these conditions. If an electronic communication path is agreed with the company, such changes may also be transmitted in this way, provided the form of transmission permits the company to save and print out the changes in a legible format. Changes are considered approved if the company does submit an objection to its payment service provider, either in writing or via the agreed electronic communications channel. The company will be alerted to this fact in particular when it is notified of changes. The company must

Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

send any objections to its account-keeping payment service provider within six weeks of notification of changes.

**15. Choice of law, place of jurisdiction and language**

These conditions and their attachments are subject to the law of the Federal Republic of Germany. Berlin is the exclusive place of jurisdiction for disputes concerning these conditions. A payment service provider and the company can also have proceedings brought against them in the jurisdiction where their place of business is located. In the case of translations, the version in the German language is binding in each case.

II. Technical appendix to the conditions for participating in the electronic-cash system of the German Banking Industry Committee (merchant policy)

**1. Permitted cards**

Cards issued by German credit institutions that display an electronic-cash symbol as per section 2.3 can be used at terminals that are compatible with the electronic-cash system of the German Banking Industry Committee (GBIC).

**2. Operating instructions**

**2.1. Security requirements (privacy shield)**

In principle, system security is to be ensured by the network operator.

However, the merchant must also contribute by taking appropriate measures to provide a privacy shield, i.e. to ensure the customer can enter his or her PIN in private. This includes in particular:

- The location of the customer keypad should be chosen and designed in such a way that the privacy shield, in combination with the customer’s body, enables the best-possible shielding of PIN entry.
- Handheld devices should be placed in the customer’s hands.
- Table devices should be movable so that the customer can adjust them to a suitable position.
- Video cameras and mirrors should be positioned in such a way that PIN entry cannot be observed using them.
- A separation zone should be set up around the input device.

**2.2. General requirements for terminals**

The network operator is obligated to connect to its network only terminals that satisfy the requirements of the banking industry (cf. point 3 of the merchant’s conditions). These are limited to:

- The smooth processing of the transaction whilst maintaining a few basic functions



Terms and conditions of Concardis GmbH  
for the acceptance and settlement of credit and debit cards in  
card-present transactions and for the provision of POS services  
(‘SmartPay terms and conditions’)

- Organising a customer interface (with a display, customer records, PIN entry keypad, etc.) to ensure a uniform appearance of the system
- System security in particular, which ensures the secure transmission of purchase data and personal identification numbers (PIN) by employing appropriate software and hardware

### 2.3 girocard logos

A girocard logo is to be used as an acceptance mark at the checkout.

